



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 7, 1997

Mr. Lou Bright
General Counsel
Texas Alcoholic Beverage Commission
P.O. Box 13127
Austin, Texas 78711-3127

OR97-0511

Dear Mr. Bright:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 104356.

The Alcoholic Beverage Commission (the "commission") received a request for an investigation into an automobile accident and for information about investigations of a particular business and any complaints concerning the business. We assume from your correspondence with the requestor that you have already provided the requestor with responsive information that has been expressly held to be public. Alco. Bev. Code §§ 5.47, .48; Open Records Decision No. 186 (1978). You have submitted to this office records about the accident, which you assert are excepted from disclosure pursuant to sections 552.103 and 552.108 of the Government Code.

We note initially that the records at issue include an accident report form. *See* Transp. Code § 550.064 (officer's accident report). The Seventy Fourth Legislature, without reference to the repeal and codification of V.T.C.S. article 6701d,¹ amended

¹Effective September 1, 1995, article 6701d was repealed and codified as part of the Transportation Code. Act of May 1, 1995, 74th Leg., R.S., ch. 165, § 24, 1995 Tex. Sess. Law Serv. 1025, 1870-71. *See* Trans. Code § 550.065 (release of accident reports). The legislature did not intend a substantive change of the law but merely a recodification of existing law. *Id.* § 25, 1995 Tex. Sess. Law Serv. at 1871. The repeal of a statute by a code does not affect an amendment of the statute by the same legislature which enacted the code and the amendment is preserved and given effect as part of the code provision. Gov't Code § 311.031(c). Thus, the amendment of section 47 of article 6701d, V.T.C.S., in House Bill 391, remains in effect as current law and may be found following section 550.065 of the Transportation Code. *See also* Act of May 27, 1995, 74th Leg., R.S., ch. 894, §1, 1995 Tex. Sess. Law Serv. 4413, 4414.

section 47 of article 6701d, V.T.C.S., relating to the disclosure of accident reports. Act of May 27, 1995, 74th Leg., R.S., ch. 894, §1, 1995 Tex. Sess. Law Serv. 4413, 4414. As amended, section 47(b)(1) provides that:

The Department or a law enforcement agency employing a peace officer who made an accident report:

. . . .

(D) a person who provides the Department or the law enforcement agency with two or more of the following:

- (i) the date of the accident;
- (ii) the name of any person involved in the accident; or
- (iii) the specific location of the accident

Id. Since the requestor has provided the required information, the requestor is entitled to a copy of the accident report form.

Section 552.108 excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime." and "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution." See *Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). We agree that the records at issue, other than the accident report form, are generally subject to section 552.108.

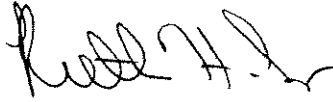
However, you must release the front page offense report information at issue. Information normally found on the front page of an offense report is generally considered to be public and must be disclosed. See generally *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). This information is not excepted from disclosure under section 552.108.²

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous

²You also asserted that section 552.103(a) is applicable to the records at issue. We note that front page offense report information may not generally be withheld under either section 552.103 or 552.108. Open Records Decision No. 597 (1991). Since the records at issue are subject to section 552.108, we need not consider the applicability of your section 552.103(a) argument.

determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Ruth H. Soucy', written in a cursive style.

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 104356

Enclosures: Submitted documents

cc: Mr. Michael Wade
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(w/o enclosures)